

APPENDIX A TO PART 617—STANDARD
FOR CLAIM FILING, CLAIMANT RE-
PORTING, JOB FINDING, AND EMPLOY-
MENT SERVICES

EMPLOYMENT SECURITY MANUAL (PART V,
SECTIONS 5000-5004)

5000-5099 *Claims Filing*

5000 *Standard for Claim Filing, Claimant Re-
porting, Job Finding, and Employment Serv-
ices*

A. *Federal law requirements.* Section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act require that a State law provide for:
“Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary may approve.”

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law provide for:

“Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *

Section 303(a)(1) of the Social Security Act requires that the State law provide for:

“Such methods of administration * * * as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due.”

B. *Secretary's interpretation of federal law requirements.*

1. The Secretary interprets section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act to require that a State law provide for payment of unemployment compensation solely through public employment offices or claims offices administered by the State employment security agency if such agency provides for such coordination in the operations of its public employment offices and claims offices as will insure (a) the payment of benefits only to individuals who are unemployed and who are able to work and available for work, and (b) that individuals claiming unemployment compensation (claimants) are afforded such placement and other employment services as are necessary and appropriate to return them to suitable work as soon as possible.

2. The Secretary interprets all the above sections to require that a State law provide for:

a. Such contact by claimants with public employment offices or claims offices or both, (1) as will reasonably insure the payment of unemployment compensation only to individuals who are unemployed and who are able to work and available for work, and (2) that claimants are afforded such placement and other employment services as are nec-

essary and appropriate to facilitate their return to suitable work as soon as possible; and

b. Methods of administration which do not unreasonably limit the opportunity of individuals to establish their right to unemployment compensation due under such States law.

5001 *Claim Filing and Claimant Reporting Re-
quirements Designed To Satisfy Secretary's
Interpretation*

A. *Claim filing—total or part-total unemploy-
ment*

1. Individuals claiming unemployment compensation for total or part-total unemployment are required to file a claim weekly or biweekly, in person or by mail, at a public employment office or a claims office (these terms include offices at itinerant points) as set forth below.

2. Except as provided in paragraph 3, a claimant is required to file in person.

a. His new claim with respect to a benefit year, or his continued claim for a waiting week or for his first compensable week of unemployment in such year; and

b. Any other claim, when requested to do so by the claims personnel at the office at which he files his claim(s) because questions about his right to benefits are raised by circumstances such as the following:

(1) The conditions or circumstances of his separation from employment;

(2) The claimant's answers to questions on mail claim(s) indicate that he may be unable to work or that there may be undue restrictions on his availability for work or that his search for work may be inadequate or that he may be disqualified;

(3) The claimant's answers to questions on mail claims create uncertainty about his credibility or indicate a lack of understanding of the applicable requirements; or

(4) The claimant's record shows that he has previously filed a fraudulent claim.

In such circumstances, the claimant is required to continue to file claims in person each week (or biweekly) until the State agency determines that filing claims in person is no longer required for the resolution of such questions.

3. A claimant must be permitted to file a claim by mail in any of the following circumstances:

a. He is located in an area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest facility established by the State agency for filing claims in person;

b. Conditions make it impracticable for the agency to take claims in person;

c. He has returned to full-time work on or before the scheduled date for his filing a claim, unless the agency makes provision for in-person filing at a time and place that does not interfere with his employment;

d. The agency finds that he has good cause for failing to file a claim in person.

4. A claimant who has been receiving benefits for partial unemployment may continue to file claims as if he were a partially unemployed worker for the first four consecutive weeks of total or part-total unemployment immediately following his period of partial unemployment so long as he remains attached to his regular employer.

B. *Claim filing—partial unemployment.* Each individual claiming unemployment compensation for a week (or other claim period) during which, because of lack of work, he is working less than his normal customary full-time hours for his regular employer and is earning less than the earnings limit provided in the State law, shall not be required to file a claim for such week or other claim period earlier than 2 weeks from the date that wages are paid for such claim period or, if a low earnings report is required by the State law, from the date the employer furnished such report to the individual. State agencies may permit claims for partial unemployment to be filed either in person or by mail, except that in the circumstances set forth in section A 3, filing by mail must be permitted, and in the circumstances set forth in section A 2 b, filing in person may be required.

5002 *Requirement for Job Finding, Placement, and Other Employment Services Designed To Satisfy Secretary's Interpretation*

A. Claims personnel are required to assure that each claimant is doing what a reasonable individual in his circumstances would do to obtain suitable work.

B. In the discretion of the State agency:

1. The claims personnel are required to give each claimant such necessary and appropriate assistance as they reasonably can in finding suitable work and at their discretion determine when more complete placement and employment services are necessary and appropriate for a claimant; and if they determine more complete services are necessary and appropriate, the claims personnel are to refer him to employment service personnel in the public employment office in which he has been filing claim(s), or, if he has been filing in a claims office, in the public employment office most accessible to him; or

2. All placement and employment services are required to be afforded to each claimant by employment service personnel in the public employment office most accessible to him in which case the claims personnel in the office in which the claimant files his claim are to refer him to the employment service personnel when placement or other employment services are necessary and appropriate for him.

C. The personnel to whom the State agency assigns the responsibilities outlined in

paragraph B above are required to give claimants such job-finding assistance, placement, and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible.

In some circumstances, no such services or only limited services may be required. For example, if a claimant is on a short-term temporary layoff with a fixed return date, the only service necessary and appropriate to be given to him during the period of the layoff is a referral to suitable temporary work if such work is being performed in the labor market area.

Similarly, claimants whose unemployment is caused by a labor dispute presumably will return to work with their employer as soon as the labor dispute is settled. They generally do not need services, nor do individuals in occupations where placement customarily is made by other nonfee charging placement facilities such as unions and professional associations.

Claimants who fall within the classes which ordinarily would require limited services or no services shall, if they request placement and employment services, be afforded such services as are necessary and appropriate for them to obtain suitable work or to achieve their reasonable employment goals.

On the other hand, a claimant who is permanently separated from his job is likely to require some services. He may need only some direction in how to get a job; he may need placement services if he is in an occupation for which there is some demand in the labor market area; if his occupation is outdated, he may require counseling and referral to a suitable training course. The extent and character of the services to be given any particular claimant may change with the length of his unemployment and depend not only on his own circumstances and conditions, but also on the condition of the labor market in the area.

D. Claimants are required to report to employment service personnel, as directed, but such personnel and the claims personnel required to so arrange and coordinate the contacts required of a claimant as not to place an unreasonable burden on him or unreasonably limit his opportunity to establish his rights to compensation. As a general rule, a claimant is not required to contact in person claims personnel or employment service personnel more frequently than once a week, unless he is directed to report more frequently for a specific service such as referral to a job or a training course or counseling which cannot be completed in one visit.

E. Employment service personnel are required to report promptly to claims personnel in the office in which the claimant files his claim(s): (1) his failure to apply for or accept work to which he was referred by such personnel or when known, by any other

nonfee-charging placement facility such as a union or a professional association; and (2) any information which becomes available to it that may have a bearing on the claimant's ability to work or availability for work, or on the suitability of work to which he was referred or which was offered to him.

5004 *Evaluation of Alternative State Provisions*

If the State law provisions do not conform to the "suggested State law requirements" set forth in sections 5001 and 5002, but the State law contains alternative provisions, the Manpower Administrator, in collaboration with the State agency, will study the actual or anticipated affect of the alternative provisions. If the Manpower Administrator concludes that the alternative provisions satisfy the requirements of the Federal law as construed by the Secretary (see section 5000 B) he will so notify the State agency. If he does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy such requirements, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy such requirements, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.3.

[59 FR 943, Jan. 6, 1994]

APPENDIX B TO PART 617—STANDARD FOR CLAIM DETERMINATIONS—SEPARATION INFORMATION

6010 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for:

"Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation. . . ."

Section 3306(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 *Secretary's Interpretation of Federal Law Requirements.* The Secretary interprets the above sections to require that a State law include provisions which will insure that:

A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably insure the payment of benefits to individuals to whom benefits are due.

6012 *Criteria for Review of State Law Conformity with Federal Requirements:*

In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and places of filing claims, the reasons for determinations, and their rights of appeal, as will insure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably insure the payment of benefits to individuals to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 *Claim Determinations Requirements Designed To Meet Department of Labor Criteria:*

A. *Investigation of claims.* The State agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.

This requirement embraces five separate elements:

1. It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility may not be passed on to the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation is necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources